



costs of inflation, has established "lifeline" basic service tiers priced below basic service tier rates in effect at the time of adoption of the Social Contract, and is providing free cable connections to public schools in its franchise areas. The Commission delegated to the Cable Services Bureau the authority to implement the Social Contract.

3. By its terms, the Social Contract may continue to apply to a cable system divested by Time Warner only if the acquiring operator agrees to be bound by the Social Contract. Section III.F.6 of the Social Contract provides:

In the event of a sale of any system during the period of applicability of this Contract, the purchaser may elect, with the concurrence of the FCC, for the provisions of this Contract to continue to apply to such system. Such FCC concurrence shall be expeditiously decided and not be unreasonably withheld. In the event the purchaser elects not to have the provisions of this Contract apply to any such system, the [cable programming service tier ("CPST")] subscribers to such system shall be eligible for the refunds calculated pursuant to Section III.F.5 in the event the upgrade commitment described in Section III.F.1 has not been completed prior to the consummation of such sale.<sup>5</sup>

Pursuant to Section III.F.6, TCI and Time Warner seek the concurrence of the Commission to continue application of the Social Contract to the TCI Systems. TCI and Time Warner do not seek modification of the Social Contract.

4. TCI and Time Warner have entered into an agreement pursuant to which TCI agrees to be bound by the Social Contract with respect to the TCI Systems (the "Agreement"). The Agreement is attached, and its terms are incorporated herein. The Agreement becomes effective with respect to individual TCI Systems upon the release by the Commission of this Order and the consummation of the Asset Exchange Agreement in which an individual TCI System is included.

5. Section III.F.1 of the Social Contract provides that (a) systems having a capacity of at least 550 MHz as of the Social Contract effective date must be upgraded to 750 MHz within five years of the Social Contract effective date; (b) all other systems must be upgraded to 550 MHz within the same period; (c) at least 50 percent of Time Warner's subscribers must be served by systems with a capacity of at least 750 MHz, of which at least 200 MHz is expected to be dedicated to digital distribution; (d) at least 60 percent of new analog services added during the term of the Social Contract must be added to the CPST; (e) upgraded systems must offer at least 15 additional channels on the CPST as compared to the channels offered on the Social Contract effective date; and (f) at least 60 percent of the capital expended to complete the required upgrades must be applied for the benefit of basic service tier and CPST subscribers. Section III.F.3 establishes an annual reporting requirement, and Section III.F.5 requires Time Warner to pay refunds and penalties if required upgrades are not completed by the Social Contract expiration date. TCI has agreed to assume all of the foregoing obligations with respect to the TCI Systems, including the obligation to pay refunds and penalties associated with rate increases implemented by Time Warner under the Social Contract in TCI Systems if required upgrades are not completed as of the Social Contract expiration date.

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<sup>5</sup>Section III.F.5 provides that Time Warner will refund the increases taken in CPST rates, plus interest and a damages penalty, in the event Time Warner fails to fulfill its upgrade commitments to cable systems under the terms of the Social Contract. Section III.F.1 establishes the upgrade requirements.

6. Section III.F.1 of the Social Contract also imposes an investment requirement on Time Warner, pursuant to which Time Warner agreed to invest \$4 billion in capital costs associated with system upgrades. This financial commitment will not apply to TCI. Instead, TCI will be required to make such capital expenditures as may be necessary for it to complete the required upgrades.

7. Accordingly, **IT IS ORDERED** that the request that Tele-Communications, Inc. and its subsidiaries be permitted to assume the rights and obligations of Time Warner Cable under the Social Contract with respect to the TCI Systems **IS GRANTED**, provided that the Commission shall have the benefit of all agreements made between the parties to the Agreement and the right to enforce any provision of the Social Contract against the party that has agreed to be responsible for such provision in the Agreement.

8. This action is taken by the Chief, Cable Services Bureau, pursuant to authority granted by the Commission in *Social Contract for Time Warner* and pursuant to authority delegated by Section 0.321 of the Commission's rules.<sup>6</sup>

FEDERAL COMMUNICATIONS COMMISSION

Deborah A. Lathen  
Chief, Cable Services Bureau

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<sup>6</sup>*Social Contract for Time Warner*, *supra* note 3; 47 C.F.R. § 0.321.